

ACTION

OLL 84-4131

Office of Legislative Liaison
Routing Slip

TO:	ACTION	INFO
1. D/OLL		X
3. DD/OLL		X
3. Admin Officer		
4. Liaison		
5. Legislation	X	
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SUSPENSE		9 Nov 84 Date

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Action Officer:	
Remarks:	

5 Nov 84
Name/Date

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**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

**Chrono
SPECIAL**

October 31, 1984

LEGISLATIVE LIAISON
84-4131

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer-
Department of Justice
Central Intelligence Agency
Department of Defense
Department of the Treasury
National Security Council

SUBJECT: State draft report on S. 3018, the "Protection of
United States Government Personnel Act of 1984."
(Notwithstanding adjournment, the committee is still
pushing for comments.)

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than
FRIDAY, NOVEMBER 9, 1984.

Questions should be referred to Tracey Lawler (395-7300)
the legislative analyst in this office.

Ronald K. Peterson
**RONALD K. PETERSON FOR
Assistant Director for
Legislative Reference**

Enclosures

cc: Arnie Donahue
Greg Jones
Jim Barie

SPECIAL



United States Department of State

Washington, D.C. 20520

Dear Senator Specter:

Thank you for your letters of September 28 and October 3, enclosing, respectively, a bill you recently introduced, S. 3018, the "Protection of United States Government Personnel Act of 1984," and material for consideration in connection with a speech by the Secretary on terrorism.

Your keen interest in helping improve our ability to deter the increasingly dangerous scourge of terrorism is very much appreciated. We need all the fresh ideas and political support we can get.

We are aware of the need to exert every possible effort to counter terrorism and bring suspected terrorists to justice. The President's anti-terrorism legislative package introduced earlier this year was designed to help us do that. In this regard, it was heartening to the Administration, and to our allies and other like-minded governments, to see the Congress finally adopt during the last session the implementing legislation for the Montreal Convention on aircraft sabotage and the United Nations Convention on taking of hostages. The legislation authorizing payment of rewards for information on terrorism will also be helpful. We hope that additional legislation can be adopted by the next Congress to provide us the legal basis to investigate and prosecute persons in this country who use our territory as a base to provide material, technical or planning support for terrorist activities in other countries, and to correct other gaps in our criminal laws regarding terrorism which the Administration and the Congress determine to require action.

In this spirit we understand and appreciate your efforts in support of the fight against terrorism, as exemplified by two legislative proposals you have introduced or co-sponsored this session, S. 2771, on which Administration witnesses have testified before the Senate Judiciary Committee's Subcommittee on Security and Terrorism, and S. 3018. The Department's position on S. 2771 was outlined in our testimony before the Security and Terrorism Subcommittee. In that testimony Acting Legal Adviser McGovern referred to our efforts in coordination with our allies to terrorist-related abuse of diplomatic privileges and immunities, at which we understood S. 2771 to be directed. Mr. McGovern stated, however, that we would take a

The Honorable
Arlen Specter,
United States Senate.

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cautious approach to amending the Vienna Convention on Diplomatic Relations, a concept that, as you note in the first proposal set forth in your letter of October 3, is necessarily linked to S. 2771. He pointed out that other recent efforts to address the issue of diplomatic privileges and immunities in the international arena had proceeded in a direction opposite to that which we sought.

Since that hearing, a delegation of U.S. counter-terrorism experts headed by Ambassador Oakley, Director of the Office of Counter-terrorism and Emergency Planning, has met in London on September 19 with experts in this field from the governments of the other members of the Summit Seven group, consisting of our major democratic allies, the United Kingdom, France, the Federal Republic of Germany, Italy, Canada, and Japan. A central topic on the agenda of that meeting was the Vienna Convention on Diplomatic Relations and its relationship to the problem of terrorism. The experts of all Summit Seven countries agreed that the question of amending the Vienna Convention should be approached with great caution, and that no such proposal should be put forward at this time. They also agreed, that to the extent that there exists a problem of terrorist-related abuse of the privileges and immunities provided in the Convention, it could best be handled by stricter and better-coordinated application of the terms of the Convention as they now stand. The group of experts considered several specific proposals toward this end, and plan to continue close and active cooperation in this and other areas. You may also be interested to know that, aside from the incident last April involving the Libyan "People's Bureau" in London, none of the governments involved reported any recent instances of terrorist-related abuse of diplomatic privileges and immunities.

Regarding S. 3018, we will of course study the bill and expect to provide definitive comments on it in due course through the usual OMB channels, in which other potentially interested agencies, such as the Departments of Justice and Defense and the Central Intelligence Agency, would also have the opportunity to make their views known. As a preliminary matter, however, we can say that the bill has certain features that would make it difficult for us to support. It is in our view largely redundant, given the existence of federal statutes such as sections 112, 114, 351, 1114, and 1116 of title 18. For example, the recent truck bomb attack on our Embassy annex in East Beirut would constitute a U.S. federal offense under one or more of the laws listed above. We do not believe there is much to be gained in terms of deterrence of terrorists by adding additional categories of persons to this coverage.

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Further, the contemplated use of abduction as a means of securing personal jurisdiction over an alleged offender is in principle highly objectionable from the standpoint of international law, and is contrary to the principles and values that we, as Americans, take for granted. The outcry that would greet, for example, the abduction of an American from U.S. soil by a foreign power can be easily imagined. We recognize, of course, that there are countries that do not play by normally accepted international rules, but in our view the answer to that problem is to strengthen these rules and the mechanisms for enforcing them, not to take rash actions in violation of international law that could severely undermine the position of the United States as a defender of international legality, would make vitally needed international cooperation in fighting terrorism more difficult to achieve, and could well lead to a dangerous cycle of retaliation by other countries.

As to the third proposal for preemptive actions against terrorists, mentioned in your October 3 letter, the Secretary and other senior Administration officials have spoken on several occasions of the need, under certain circumstances, to employ an active defense, possibly including pre-emptive actions, against terrorism. Any such actions would of course be taken on the basis of a careful weighing of all relevant circumstances at the time, including consideration of U.S. and international law. Regarding "arrests" of terrorists abroad, we must point out that, in addition to the issues raised above with regard to abduction of suspected offenders, U.S. authorities have no legal authority whatsoever to carry out "arrests" in foreign countries, just as foreign authorities have no authority to arrest persons here.

The United States has in being forces able to carry out operations against terrorists overseas, as well as at home. These forces are superbly prepared for the sort of action they might face. The leading elements of these forces are the FBI, at home, and the Special Operations Forces, abroad; and they can work together very well when called upon, as was demonstrated in the successful protection of the Los Angeles Olympics this past August.

Regarding your fourth proposal on intelligence support, we have created an intelligence program of the sort you recommend in the form of a special Committee which comprises all of the U.S. Government agencies with domestic and foreign intelligence capabilities for the detection of terrorists and terrorist activity, and serves to coordinate their actions in this area. It was particularly useful at the Los Angeles Olympics. Recent actions by the Department of State and other agencies, and the approval of additional funds by the Congress, have served to increase our intelligence potential against terrorists.

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However, more still needs to be done in this area.

Finally, on your fifth proposal to concentrate control of terrorism crisis management under the Vice President, the National Security Council has considered a broad range of alternative organizational arrangements for the counter-terrorist activities and agencies of the U.S. Government and shall certainly continue to do so. The presently existing arrangements were recommended by the NSC and approved by the President last April, with policy considerations handled in the first instance by a special Interdepartmental body chaired by the Department of State, and with operational control for specific incidents handled by another special Interagency body chaired by the NSC. The State Department sees no reason to change these arrangements, but will, of course, keep an open mind for the future.

I hope that this information will be useful to you.

Sincerely,

Robert F. Turner
Acting Assistant Secretary
Legislative and Intergovernmental Affairs